

AMENDED IN SENATE JUNE 5, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 67

Introduced by Assembly Member Dymally

December 4, 2006

An act to amend Sections 7292, 7295, 7295.4, 7296, 7296.4, 7299.1, 7299.4, 7299.5, and 7299.8 of the Government Code, relating to bilingual services.

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as amended, Dymally. State and local agencies: bilingual services.

Existing law requires local and state agencies to provide information regarding public services in a non-English language if a substantial number of the public served by the agency are non-English-speaking people. Existing law also requires state agencies to provide reports to the State Personnel Board regarding the provision of information in a non-English language, subject to certain exceptions by the State Personnel Board.

This bill would provide that a person is qualified as a bilingual person, employee, or interpreter for these purposes if the State Personnel Board has tested and certified the person or approved the testing and certification. The bill would provide that local agencies would have discretion to determine who is qualified to provide information in a non-English language. The bill would also authorize additional grounds for the State Personnel Board to exempt state agencies from the reporting requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7292 of the Government Code is amended
2 to read:

3 7292. (a) Every state agency, as defined in Section 11000,
4 except the State Compensation Insurance Fund, directly involved
5 in the furnishing of information or the rendering of services to the
6 public whereby contact is made with a substantial number of
7 non-English-speaking people, shall employ a sufficient number
8 of qualified bilingual persons in public contact positions to ensure
9 provision of information and services to the public, in the language
10 of the non-English-speaking person. ~~Information or services subject~~
11 ~~to this chapter shall include public safety, protection, and~~
12 ~~prevention; access to state benefits and public programs; resources~~
13 ~~and facilities; and any other state program or activity in which the~~
14 ~~public good is served.~~

15 (b) *For the purposes of this chapter, the furnishing of*
16 *information or rendering of services includes, but is not limited*
17 *to, providing public safety, protection, or prevention, administering*
18 *state benefits, implementing public programs, managing public*
19 *resources or facilities, holding public hearings, and engaging in*
20 *any other state program or activity that involves public contact.*

21 SEC. 2. Section 7295 of the Government Code is amended to
22 read:

23 7295. Any materials explaining services available to the public
24 shall be translated into any non-English language spoken by a
25 substantial number of the public served by the agency. Whenever
26 notice of the availability of materials explaining services available
27 is given, orally or in writing, it shall be given in English and in
28 the non-English language into which any materials have been
29 translated. The determination of when these materials are necessary
30 when dealing with local agencies shall be left to the discretion of
31 the local agency.

32 SEC. 3. Section 7295.4 of the Government Code is amended
33 to read:

34 7295.4. Whenever a state agency finds that the factors listed
35 in both subdivisions (a) and (c) or (b) and (c) exist, it shall

1 distribute the applicable written materials in the appropriate
2 non-English language through its local offices or facilities to
3 non-English-speaking persons, or, as an alternative, the state
4 agency may instead elect to furnish translation aids, translation
5 guides, or provide assistance, through use of a qualified bilingual
6 person, at its local offices or facilities in completing English forms
7 or questionnaires and in understanding English forms, letters, or
8 notices:

9 (a) The written materials, whether forms, applications,
10 questionnaires, letters, or notices solicit or require the furnishing
11 of information from an individual or provide that individual with
12 information.

13 (b) The information solicited, required, or furnished affects or
14 may affect the individual's rights, duties, or privileges with regard
15 to that agency's services or benefits.

16 (c) The local office or facility of the agency with which the
17 individual is dealing, serves a substantial number of
18 non-English-speaking persons.

19 SEC. 4. Section 7296 of the Government Code is amended to
20 read:

21 7296. (a) As used in this chapter, a "qualified bilingual
22 person," "qualified bilingual employee," or "qualified interpreter"
23 is a person who is proficient in both the English language and the
24 ~~foreign~~ non-English language to be used. For any state agency,
25 "qualified" means one of the following:

26 (1) ~~A person~~ *bilingual person or employee* who the State
27 Personnel Board has tested and certified *as proficient in the ability*
28 *to understand and convey in English and a non-English language*
29 *commonly used terms and ideas, including terms and ideas*
30 *regularly used in state government.*

31 (2) ~~A person~~ *bilingual employee* who was tested and certified
32 by a state agency or other testing authority approved by the State
33 Personnel Board *as proficient in the ability to understand and*
34 *convey in English and a non-English language commonly used*
35 *terms and ideas, including terms and ideas regularly used in state*
36 *government.*

37 (3) ~~A person~~ *An interpreter* who has met the testing or
38 certification standards established by the State Personnel Board
39 for outside or contract interpreters, as proficient in ~~both~~ *the ability*
40 *to communicate commonly used terms and ideas between the*

1 English language and the ~~foreign language to be used~~. *non-English*
2 *language to be used and has knowledge of basic interpreter*
3 *practices, including, but not limited to, confidentiality, neutrality,*
4 *accuracy, completeness, and transparency.*

5 (b) The determination of what constitutes “qualified” for local
6 agencies, shall be left to the discretion of the local agency.

7 SEC. 5. Section 7296.4 of the Government Code is amended
8 to read:

9 7296.4. As used in Section 7292, “a sufficient number of
10 qualified bilingual persons in public contact positions” is the
11 number required to provide the same level of services to
12 non-English-speaking persons as is available to English-speaking
13 persons seeking these services. However, where the local office
14 or facility of the state employs the equivalent of 25 or fewer
15 regular, full-time employees, it shall constitute compliance with
16 the requirements of this chapter if a sufficient number of qualified
17 bilingual persons are employed in public contact positions, or as
18 qualified interpreters to assist those in those positions, to provide
19 the same level of services to non-English-speaking persons as is
20 available to English-speaking persons seeking the services from
21 the office or facility.

22 SEC. 6. Section 7299.1 of the Government Code is amended
23 to read:

24 7299.1. State agencies may, utilizing existing funds, contract
25 for telephone-based interpretation services in addition to employing
26 qualified bilingual persons in public contact positions.

27 SEC. 7. Section 7299.4 of the Government Code is amended
28 to read:

29 7299.4. (a) Notwithstanding any other provision in this chapter,
30 each state agency shall conduct an assessment and develop and
31 update an implementation plan that complies with the requirements
32 of this chapter.

33 (b) Each agency shall conduct a survey of each of its local
34 offices every two years to determine all of the following:

35 (1) The number of public contact positions in each local office.

36 (2) The number of qualified bilingual employees in public
37 contact positions in each local office, and the languages they speak,
38 other than English.

39 (3) The number and percentage of non-English-speaking people
40 served by each local office, broken down by native language.

1 (4) The number of anticipated vacancies in public contact
2 positions.

3 (5) Whether the use of other available options, including
4 contracted telephone-based interpretation services, in addition to
5 qualified bilingual persons in public contact positions, is serving
6 the language needs of the people served by the agency.

7 (6) A list of all written materials that are required to be translated
8 or otherwise made accessible to non- or limited-English-speaking
9 individuals by Sections 7295.2 and 7295.4.

10 (7) A list of materials identified in paragraph (6) that have been
11 translated and languages into which they have been translated.

12 (8) The number of additional qualified bilingual public contact
13 staff, if any, needed at each local office to comply with this chapter.

14 (9) Any other relevant information requested by the State
15 Personnel Board.

16 (c) Each agency shall calculate the percentage of
17 non-English-speaking people served by each local office by
18 rounding the percentage arrived at to the nearest whole percentage
19 point.

20 The survey results shall be reported on forms provided by the
21 State Personnel Board, and delivered to the board not later than
22 October 1 of every even-numbered year beginning with 2008.

23 (d) Beginning in 2009 and in every odd-numbered year
24 thereafter, each state agency shall develop an implementation plan
25 that, at a minimum, addresses all of the following:

26 (1) The name, position, and contact information of the employee
27 designated by the agency to be responsible for overseeing
28 implementation of the plan.

29 (2) A description of the agency's procedures for identifying
30 written materials that need to be translated.

31 (3) A description of the agency's procedures for identifying
32 language needs at local offices and assigning qualified bilingual
33 staff.

34 (4) A description of how the agency recruits qualified bilingual
35 staff.

36 (5) A description of any training the agency provides to its staff
37 on the provision of services to non- or limited-English-speaking
38 individuals.

39 (6) A detailed description of how the agency plans to address
40 any deficiencies in meeting the requirements of this chapter,

1 including, but not limited to, the failure to translate written
2 materials or employ sufficient numbers of qualified bilingual
3 employees in public contact positions at local offices, the proposed
4 actions to be taken to address the deficiencies, and the proposed
5 dates by when the deficiencies can be remedied.

6 (7) A description of the agency's procedures for accepting and
7 resolving complaints of an alleged violation of this chapter.

8 (8) A description of how the agency complies with any federal
9 or other state laws that require the provision of linguistically
10 accessible services to the public.

11 (9) Any other relevant information requested by the State
12 Personnel Board.

13 (e) In developing its implementation plan in 2003, each state
14 agency may rely upon data gathered from its 2002 survey.

15 (f) Each state agency shall submit its implementation plan to
16 the State Personnel Board no later than October 1 of each
17 applicable year. The board shall review each plan, and, if it
18 determines that the plan fails to address the identified deficiencies,
19 the board shall order the agency to supplement or make changes
20 to its plan. A state agency that has been determined to be deficient
21 shall report to the State Personnel Board every six months on its
22 progress in addressing the identified deficiencies.

23 (g) If the board determines that a state agency has not made
24 reasonable progress toward complying with this chapter, the board
25 may issue orders that it deems appropriate to effectuate the
26 purposes of this chapter.

27 SEC. 8. Section 7299.5 of the Government Code is amended
28 to read:

29 7299.5. The State Personnel Board may exempt state agencies
30 from the requirements of Section 7299.4, where the State Personnel
31 Board determines that any of the following conditions apply:

32 (a) The agency's primary mission does not include responsibility
33 for furnishing information or rendering services to the public.

34 (b) The agency has consistently received such limited public
35 contact with the non-English-speaking public that it has not been
36 required to employ bilingual staff under Section 7292 *and the*
37 *agency employs fewer than the equivalent of 25 full-time employees*
38 *in public contact positions.*

39 ~~(c) The agency employs fewer than the equivalent of 25 full-time~~
40 ~~public contact employees.~~

1 In order to receive an exemption, each state agency shall annually
2 petition the State Personnel Board for the exemption and receive
3 approval in writing by the date established by the board. An agency
4 may receive an exemption for up to five consecutive surveys or
5 implementation plans, if it demonstrates that it meets the
6 requirements of subdivision ~~(a), (b), or (c)~~ *(a) or (b)*, and provides
7 all required documentation to the State Personnel Board.

8 SEC. 9. Section 7299.8 of the Government Code is amended
9 to read:

10 7299.8. It is not the intent of the Legislature in enacting this
11 chapter to prohibit the establishment of bilingual positions, or
12 printing of materials, or use of qualified interpreters, where less
13 than 5 percent of the people served do not speak English or are
14 unable to communicate effectively, as determined appropriate by
15 the state or local agency. It is not the intent of the Legislature in
16 enacting this chapter to require that all public contact positions be
17 filled with qualified bilingual persons.